

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE
ARTICLE 6.1. Organic Certification Appeals Process
(Notice published April 27, 2007)

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to adopt Article 2.1., Sections 1391 and 1391.1, of the regulations in Title 3 of the California Code of Regulations pertaining to organic certification appeals and mediation.

PUBLIC HEARING

The Department has scheduled a public hearing on this proposed action. The hearing will be held at 560 J Street, Suite 220, Sacramento, California 95814, at 12:00 p.m. on June 12, 2007. At the hearing, any person may present statements of arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comment relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m. on June 11, 2007. The Department will consider only comments received at the Department offices by that time. Submit comments to:

Ray Green, Program Supervisor
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814

AUTHORITY AND REFERENCE

Notice is hereby given that the Department of Food and Agriculture, pursuant to the authority vested by Sections 407, 46000, 46001, and 46002 of the Food and Agricultural Code, and to implement, interpret, or make specific Sections 401, 46004.1, 46013.1, 46016.1, 46016.2, 46016.3, 46016.4, and 46016.5 of the Food and Agricultural Code, proposes to amend regulations in Title 3 of the California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Section 407 of the Food and Agriculture Code states that the Secretary of California Department of Food and Agriculture (Secretary) may adopt such regulations as are reasonably necessary to carry out the provisions of the Food and Agricultural Code which he is directed or authorized to administer or enforce. Sections 46000 – 46002 state the Secretary shall enforce regulations adopted by the National Organic Program.

Section 401 of the Food and Agricultural Code declares the department shall promote and protect the agricultural industry of the state. Sections 46013.1 and 46016.1 – 45016.5 state the rights of appeal and mediation.

To comply with these sections of the Food and Agricultural Code the Department is proposing to add the following sections to the California Code of Regulations (CCR):

- Section 1391 will outline the appeal process for denial, suspension, or revocation of organic certification.
- Section 1391.1 will specify the process for mediation of the denial, suspension, or revocation of organic certification.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

Other nondiscretionary cost or saving imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or business: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action:

Adoption of these regulations will not:

1. Create or eliminate jobs within California;
2. Create new businesses or eliminate existing businesses within California; or
3. Affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

EFFECT ON SMALL BUSINESS

The Department has initially determined that the proposed changes in the regulations

would result in no significant added costs to small businesses affected by these proposed changes. This is based on the fact that: There will be no charge imposed upon either the certification agent or the operation seeking to use the appeal process. Also, there will be no cost to the certification agent or operation if mediation is by the Department or the County Agricultural Commissioners.

CONSIDERATION OF ALTERNATIVES

The Department has determined that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which these regulations are proposed, or would be as effective and less burdensome to affected private persons than the proposed regulations.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Ray Green, Program Supervisor
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street, Sacramento, CA 95814
Telephone: (916) 445-2180; Fax: (916) 445-2427

The backup contact person for these inquiries is:

Susan Shelton, Staff Services Analyst
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street, Sacramento, CA 95814
Telephone: (916) 445-2180; Fax: (916) 445-2427

Please direct requests for copies of the proposed text of the regulations, the initial statement of reason, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Ms. Shelton at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the rulemaking file available for inspection and copying throughout the rulemaking process at its office at 560 J Street, Suite 220, Sacramento, CA 95814. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and Title 7, Code of Federal Regulations, Sections 205.662 and 206.663. Copies may be obtained by contacting Susan Shelton at her contact address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Susan Shelton at her contact address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Shelton at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at: www.cdfa.ca.gov/is/regulation.htm

DEPARTMENT OF FOOD AND AGRICULTURE

Date

Valerie Brown, Deputy Secretary